

REMARKS

Responsive to the Office action mailed February 26, 2009, applicants request entry of the foregoing amendments, entry of the attached terminal disclaimers, consideration of the following remarks and reconsideration of the rejections set forth in said office action. A petition for extension of time to June 26, 2009 and the requisite fee is filed herewith.

The abstract of the disclosure was objected to as being too short. The abstract has been amended to comprise between 50 and 150 words. In view of the amendment to the abstract applicants submit the objection should be withdrawn.

Claims 2, 3, 6 and 7 were objected to as lacking a period at the end of the sentence. Claims 2, 6 and 7 have been canceled and claim 3 amended to include a period at the end of the sentence. In view of these amendments, Applicants submit that the objection should be withdrawn.

Claims 5 and 7 were objected to under 37 CFR 1.75(c) as being of improper dependent form. More particularly, claims 5 and 7 were held not to meet the limitations of claim 4. Claim 5 has been amended and claim 7 has been canceled.

Claim 1-16 and 21-23 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of US Patent No. 7,199,214. Filed herewith is a terminal disclaimer in accordance with 37 CFR 1.321(c). Applicants request entry of the terminal disclaimer and withdrawal of the rejection.

Claim 1-16 and 21-23 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of US Patent No. 7,214,810. Filed herewith is a terminal disclaimer in accordance with 37 CFR 1.321(c). Applicants request entry

of the terminal disclaimer and withdrawal of the rejection.

Claim 1-16 and 21-23 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of copending application serial number 11/692,377. Filed herewith is a terminal disclaimer in accordance with 37 CFR 1.321(c). Applicants request entry of the terminal disclaimer and withdrawal of the rejection.

Claim 1-16 and 21-23 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of copending application serial number 11/596,306. Filed herewith is a terminal disclaimer in accordance with 37 CFR 1.321(c). Applicants request entry of the terminal disclaimer and withdrawal of the rejection.

Claims 5 and 7 were rejected under 35 USC 102(b) as being anticipated by *Macromolecular Symposia*, 2002, 182, 225-247 (herein, "Mercier"). Applicants submit that Mercier fails to anticipate the present invention as currently claimed. The alkoxyamines disclosed in Mercier are derived from TEMPO and TIPNO and their structures are different than those of the alkoxyamines according to the present invention. The examiner cites two alkoxyamines indicated in Table 3. In Table 3, in alkoxyamine 20, R2 is a tert-butyl and the alkoxyamine is a cyclic nitroxide, derived from TEMPO. In Table 3, in alkoxyamine 26, R2 is methyl, lacks P and has aromatic rings. The alkoxyamines of the present invention do not possess cyclic or aromatic structures and contain P atoms. Applicants submit that Mercier fails to disclose each and every feature of the current invention as presently claimed and the rejection should be withdrawn.

Claims 1, 2 and 4-16 were rejected under 35 USC 102(e) as being anticipated by US Patent Application Publication No. 2003/0149205 (herein after Callais et al. '205). Applicants submit that Callais et al. '205 fails to anticipate the present invention as currently claimed.

Commonly owned, and sharing a common inventor, Callais et al. '205 discloses a process for the controlled free radical solution polymerization to a level of solids suitable for use as low volatile organic solvent coating compositions while maintaining viscosity suitable for such

coatings of monomers comprising substituted or unsubstituted acrylic acid, or esters thereof in a solvent suitable for high solids coating application at a monomer concentration sufficient to give the desired polymer concentration. The process disclosed by Callais et al. '205 is limited to a process that produces a polymer solution having a specific level of solids and viscosity. The process of the present invention is not so limited and as such, Callais et al. '205 fails to anticipate the present invention. Furthermore, in the disclosure of Callais et al. '205 structure R²_{Z2} of formula Z2 is described as being only straight chain alkyl, branched chain alkyl, or cyclic alkyl groups of from 1 to 50 carbon atoms which alkyl groups may be unsubstituted or substituted and R²_{Z2} may also be hydrogen. The process of the present invention employs alkoxyamines in which the substituents can include a phenyl radical, an alkali metal, H₄N⁺, Bu₄N⁺ or Bu₃HN⁺. Applicants submit that Callais et al. '205 fails to disclose each and every feature of the present invention fails to anticipate the present invention.

Claims 3 and 21-23 were rejected under 35 USC 103(a) as being unpatentable over Callais et al. '205, which is commonly owned and shares a common inventor. Claims 21 and 23 have been cancelled. Applicants submit that Callais et al. '205 fails to disclose the alkoxyamines of the present invention in which R₂ is Na. Applicants submit that it is not obvious to replace the straight chain alkyl, branched chain alkyl, or cyclic alkyl groups of from 1 to 50 carbon atoms which alkyl groups may be unsubstituted or substituted and R²_{Z2} may also be hydrogen of Calais et al. '205 with Na.

Claims 1-20 were rejected under 35 USC 103(a) as being unpatentable over US Patent No. 6,569,967 (hereinafter Couturier et al. '967) in view of US Patent No. 5,763,548 (herein after Matyjaszewski et al. '548). Applicants submit that Couturier et al. '967 and Matyjaszewski et al. '548 either alone or in combination fail to render obvious the present invention.

Applicants submit that Couturier et al. '967 fails to either anticipated or render obvious the method of the present invention. The claims of the present application are directed toward a process in which an alkoxyamine of a specified formula is employed. In the formula of the claims of the present application disclose that R² can be a hydrogen atom, a phenyl radical, an alkali metal, H₄N⁺, Bu₄N⁺ or Bu₃HN⁺. The alkali metal can be Li, Na or K (claim 22). Applicants

submit that Couturier et al. '967 fails to provide any disclosure of, or render obvious the compounds claimed in the current claims. Applicants submit that the teaching of Matyjaszewski et al. '548 that brominated carboxylic esters are equivalent in function to brominated carboxylic acids for an ATRA process, when combined with the disclosure of Couturier et al. '967 fails to anticipate or render obvious the specific alkoxyamines of the present invention. The combination of the teaching of Matyjaszewski et al. '548 with Couturier et al. '967 would comprise some form of the alkoxyamines of Couturier et al. '967 with some form a brominated carboxylic acids. Applicants submit that such a combination does not render obvious the alkoxyamines derived from β -phosphorated nitroxides of the present invention which are devoid of bromine.

Claims 1-20 were rejected under 35 USC 103(a) as being unpatentable over US Patent No. 6,569,967 (hereinafter Couturier et al. '967). Applicants submit that commonly owned Couturier et al. '967 fail to render obvious the present invention. The claims of the present application disclose that R^2 can be a hydrogen atom, a phenyl radical, an alkali metal, H_4N^+ , Bu_4N^+ or Bu_3HN^+ . The alkali metal can be Li, Na or K (claim 22). Applicants submit that Couturier et al. '967 fails to provide any disclosure of that R^9 of its Z formula can be a hydrogen atom, a phenyl radical, an alkali metal, H_4N^+ , Bu_4N^+ or Bu_3HN^+ , the compounds claimed in the current claims.

In view of the foregoing remarks, applicant respectfully submits that claims 3-5, 8-11, and 22 of the present application are in condition for allowance and prompt favorable action is solicited.

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Respectfully submitted,



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